IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 316 of 2002 (S/S)

(Old No. 1068 / 1992)

Kishori Lal Gupta
S/o Sri Bankey Lal Vaish
Principal
Govind Ballabh Pant Inter College,
Khairna, District Nainital.

……. Petitioner

Versus

1. State of U.P.
   through the Secretary, Secondary Education,
   Secretariat, Lucknow.
2. Director of Secondary Education
   U.P., 18, Park Road, Lucknow.
3. Deputy Director of Education
   Kumaun Region, Nainital.
4. District Inspector of Schools,
   Nainital.

…… Respondents

Mr. I.P. Gairola, Advocate for the petitioner.
Mrs. Bena Pande, Standing Counsel for the State of U.P.

Hon. Prafulla C. Pant, J.

Heard learned counsel for the parties.

2) By means of this writ petition, the petitioner has sought writ in the nature of certiorari, quashing the order dated 09.01.1992, copy Annexure –8 to the writ petition, passed by respondent No. 4, whereby salary for the period 01.08.1991 to 31.01.1992 is sought to be recovered from the petitioner.

3) Admittedly, the petitioner was Principal in Government Inter College, Khairna, District Nainital. It is also not disputed that on completion of 58 years of age, he was to retire on 31.07.1991, as per the rules applicable in that year. It appears that respondent No. 4 made a recommendation for extension of service of the petitioner, and under the impression that the extension would be made, the petitioner continued to work till 11th February 1992 i.e. till the new incumbent took over the charge of Principal of Government Inter College, Khairna. It is also not disputed that the State Government did not accept the recommendation, and no extension of service was made. As such, the impugned order dated 9th January 1992, appears to have been passed directing recovery of the salary of seven months drawn by the petitioner after the superannuation age.

4) Learned counsel for the petitioner argued that since the extension of service of the petitioner was recommended by respondent No. 4 (District Inspector of Schools) himself, and no incumbent took over charge from the petitioner till 11.02.1992, as such, salary drawn for the intervening period cannot be recovered from the petitioner. However, I am unable to accept the submission made by learned counsel for the petitioner as there appears no rule or Government Order, which entitles a person to draw salary after the age of superannuation, unless his services are extended by an express order. Working merely under the impression that the extension is likely to come petitioner does not become entitled to the salary after attaining the age of superannuation.

5) I do not find any illegality in the conditions imposed in Para 3 of the Government Order No. 7022 / 15(1) / 83 – 31 (16) / 77) dated 21st March 1984, which provides conditions for extension of period of superannuation, till the end of the academic session.

6) For the reasons as discussed above, this Court does not find any merit in the writ petition, and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. No order as to costs.

(Prafulla C. Pant, J.)

Dt. October 26, 2007.

H. Negi